

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

v.

CHRISTOPHER KELLY

Criminal Case No. 19-CR-250-PB

**MOTION FOR JUDICIAL RECOMMENDATION**

The defendant, Christopher Kelly, by and through counsel, Donna J. Brown, respectfully moves the Court for a judicial recommendation that he be considered for participation in Medication-Assisted Treatment (MAT) program at the Strafford County Department of Corrections.

In support of this motion, the defendant submits that:

After a 3-day jury trial, the defendant was found guilty by jury on March 5, 2021 of one count of conspiracy to distribute and possess with intent to distribute methamphetamine pursuant to 21 U.S.C § 846, § 841 (a)(1), 21 U.S.C § 841 (b)(1)(C) and one count of possession of a firearm and ammunition by a convicted felon pursuant to 18 U.S.C. § 922 (g)(1).

Mr. Kelly is incarcerated at Strafford County Department of Corrections awaiting sentencing. Sentencing in this matter is presently scheduled for December 10, 2021.

After post-conviction appoint on this case, undersigned counsel attempted to locate any medical records relevant to Mr. Kelly's substance use disorder. These records document a history of opioid addictions dating back more than 10 years:

Date	Event related to Opioid Addition	Source
3/6/08	Admitted to Elliot Hospital – “I want to detox” and “now taking heroin.”	Ex. 1 at 11-12
5/2/08	NH State Prison Records – “On Suboxin” (sic)	Ex. 1 at 15

9/10/10	Admitted at CMC - Kelly experiencing narcotic withdrawal	Ex. 1 at 9
11/3/15	Mental Health Center of Greater NH – Prescribed “Oxys”	Ex. 1 at 14
2/17/16	Admitted to CMC – “IV heroin user”	Ex. 1 at 1-3
2/28/16	Admitted to CMC – Admitted to using heroin prior to arrival	Ex. 1 at 5
11/6/16	Admitted to Elliot Hospital – Note: Prescribed Buprenorphine [to treat opioid addiction]	Ex. 1 at 13
2/6/18	Admitted to CMC – “Abused heroin”	Ex. 1 at 3
5/11/18	Admitted to CMC – “Injected heroin” and on prescription Oxycodone	Ex. 1 at 6-7
1/18/20	Lakes Region Hospital – “Detoxing” previously maintained on suboxone and recently relapsed – referral made to get back on suboxone.	Ex. 1 at 16-21

Mr. Kelly believes MAT is an essential key to his recovery and respectfully requests that this Court recommend that the relevant correctional authority evaluate the attached medical records for his induction into its MAT program while he is incarcerated. Mr. Kelly sent a request to Strafford Department of Corrections to be assessed by ROAD to a Better Life for MAT but the response suggested that he was only eligible for the program upon release. Exhibit 2.

By making this motion, Mr. Kelly is seeking access to any available treatment tools that will aid him in his recovery, and ultimately, his reentry. A recommendation from the Court will hopefully help Mr. Kelly gain access to MAT while he is still at the Strafford Department of Corrections and then incarcerated in the BOP. Additionally, the Strafford County Department of Corrections’ failure to make MAT available to Mr. Kelly is inconsistent with the holding in a *Smith v. Aroostook County*, 922 F.3d 41, 42 (1st Cir. 2019), affirming *Smith v. Aroostook County*, 376 F.Supp.3d 146, 160 (Me. 2019).

Undersigned counsel has contacted the government by and through AUSA Debra Walsh and she does not object to Mr. Kelly receiving MAT treatment if deemed medically appropriate by the jail.

No memorandum is attached as all points and authorities are contained herein.

WHEREFORE, the defendant respectfully requests that the Court grant the requested relief, recommend that the Strafford County Department of Corrections evaluate Mr. Kelly for induction into their MAT program, and for such other relief as may be deemed just.

Respectfully submitted,

Christopher Kelly

By his attorneys,

Wadleigh, Starr & Peters, P.L.L.C.

Dated: November 16, 2021

By: /s/ Donna J. Brown  
Donna J. Brown  
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#### CERTIFICATE OF SERVICE

I hereby certify that this motion has been e-filed to AUSA Debra Walsh on this 16<sup>th</sup> day of November 2021.

/s/ Donna J. Brown